

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 79

Introduced by Pirsch, 4.

Read first time January 8, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to child support; to amend section 43-512.15,
2 Reissue Revised Statutes of Nebraska; to change
3 provisions relating to when a child support order
4 modification complaint is to be filed; and to repeal the
5 original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-512.15, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-512.15 (1) The county attorney or authorized attorney,
4 upon referral from the Department of Health and Human Services,
5 shall file a complaint to modify a child support order unless the
6 attorney determines in the exercise of independent professional
7 judgment that:

8 (a) The variation from the Supreme Court child support
9 guidelines pursuant to section 42-364.16 is based on material
10 misrepresentation of fact concerning any financial information
11 submitted to the attorney;

12 (b) The variation from the guidelines is due to a
13 voluntary reduction in net monthly income. For purposes of this
14 section, a person who has been incarcerated for a period of one
15 year or more in a county or city jail or a federal or state
16 correctional facility shall be considered to have an involuntary
17 reduction of income unless (i) the incarceration is a result of
18 a conviction for criminal nonsupport pursuant to section 28-706
19 or a conviction for a violation of any federal law or law of
20 another state substantially similar to section 28-706, ~~or~~ (ii)
21 the incarcerated individual has a documented record of willfully
22 failing or neglecting to provide proper support which he or
23 she knew or reasonably should have known he or she was legally
24 obligated to provide when he or she had sufficient resources to
25 provide such support, or (iii) the incarceration is a result of a

1 conviction for a crime in which the child who is the subject of the
2 child support order was victimized; or

3 (c) When the amount of the order is considered with all
4 the other undisputed facts in the case, no variation from the
5 criteria set forth in subdivisions (1) and (2) of section 43-512.12
6 exists.

7 (2) The department, a county attorney, or an authorized
8 attorney shall not in any case be responsible for reviewing or
9 filing an application to modify child support for individuals
10 incarcerated as described in subdivision (1)(b) of this section.

11 (3) The proceedings to modify a child support order shall
12 comply with section 42-364, and the county attorney or authorized
13 attorney shall represent the state in the proceedings.

14 (4) After a complaint to modify a child support order is
15 filed, any party may choose to be represented personally by private
16 counsel. Any party who retains private counsel shall so notify the
17 county attorney or authorized attorney in writing.

18 Sec. 2. Original section 43-512.15, Reissue Revised
19 Statutes of Nebraska, is repealed.